

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

v.

MICRO ENCODER, INC.,

Defendant.

CIVIL ACTION NO.

COMPLAINT

JURY DEMAND

NATURE OF THE ACTION

This is an action under the Age Discrimination in Employment Act to correct unlawful employment practices on the basis of age and to provide appropriate relief to Brinkley Barr. The Equal Employment Opportunity Commission ("EEOC") alleges that Micro Encoder, Inc. ("Defendant") unlawfully refused to hire Mr. Barr for a vacant engineer position because of his age, despite being qualified for the job.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 626(b) (the "ADEA"), which incorporates by reference Sections 16(c) and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. §§ 216(c) and 217.

1 2. The employment practices alleged to be unlawful were committed within
2 the jurisdiction of the United States District Court for the Western District of
3 Washington.

4 PARTIES

5 3. Plaintiff, the Equal Employment Opportunity Commission (the
6 "Commission"), is the agency of the United States of America charged with the
7 administration, interpretation and enforcement of the ADEA and is expressly authorized
8 to bring this action by Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as amended by
9 Section 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-
10 532 (1984), 98 Stat. 2705.

11 4. At all relevant times, Defendant (the "Employer") has continuously been a
12 corporation doing business in the State of Washington and has continuously had at
13 least 20 employees.

14 5. At all relevant times, Defendant Employer has continuously been an
15 employer engaged in an industry affecting commerce within the meaning of Sections
16 11(b), (g) and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h).

17 6. Prior to institution of this lawsuit, the Commission's representatives
18 attempted to eliminate the unlawful employment practices alleged below and to effect
19 voluntary compliance with the ADEA through informal methods of conciliation,
20 conference and persuasion within the meaning of Section 7(b) of the ADEA, 29 U.S.C.
21 § 626(b).

22 STATEMENT OF CLAIMS

23 7. On or about January 20, 2004, the Defendant Employer engaged in
24 unlawful employment practices at its Kirkland, Washington facility, in violation of
25 Section 4(a)(1) of the ADEA, 29 U.S.C. § 623(a)(1). The practices include failing or

1 refusing to hire Brinkley Barr because of his age, 50.

2 8. The effect of the practices complained of in paragraph 7 above has been
3 to deprive Mr. Barr of equal employment opportunities and otherwise adversely affect
4 his status as an applicant for employment because of his age.

5 9. The unlawful employment practices complained of in paragraphs 7 and 8
6 above were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

7 PRAYER FOR RELIEF

8 Wherefore, the Commission respectfully requests that this Court:

9 A. Grant a permanent injunction enjoining Defendant Employer, its officers,
10 successors, assigns and all persons in active concert or participation with it, from failing
11 or refusing to hire individuals because of their age and any other employment practice
12 which discriminates on the basis of age against individuals 40 years of age and older.

13 B. Order Defendant Employer to institute and carry out policies, practices
14 and programs which provide equal employment opportunities for individuals 40 years of
15 age and older, and which eradicate the effects of its past and present unlawful
16 employment practices.

17 C. Grant a judgment requiring Defendant Employer to pay appropriate back
18 wages in an amount to be determined at trial, an equal sum as liquidated damages, and
19 prejudgment interest to Mr. Barr whose wages are being unlawfully withheld as a result
20 of the acts complained of above.

21 D. Order Defendant Employer to make whole Mr. Barr who is adversely
22 affected by the unlawful practices described above, by providing the affirmative relief
23 necessary to eradicate the effects of its unlawful practices, including but not limited to
24 front pay.

25 I. Grant such further relief as the Court deems necessary and proper in the

1 public interest.

2 J. Award the Commission its costs of this action.

3 JURY TRIAL DEMAND

4 The Commission requests a jury trial on all questions of fact raised by its
5 complaint.

6 DATED this 30th day of September, 2004.

7
8 A. LUIS LUCERO, JR.
Regional Attorney

ERIC S. DREIBAND
General Counsel

9 JOHN F. STANLEY
10 Acting Supervisory Trial Attorney

JAMES L. LEE
Deputy General Counsel

11 WESLEY KATAHIRA
Senior Trial Attorney

GWENDOLYN YOUNG REAMS
Associate General Counsel

12 BY: /S/ A. Luis Lucero

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14 EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION
Seattle District Office
15 909 First Avenue, Suite 400
Seattle, Washington 98104
16 Telephone (206) 220-6918
Wesley.Katahira@eeoc.gov

Office of the General Counsel
1801 "L" Street NW
Washington, D.C. 20507

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18 Attorneys for Plaintiff
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